

## **Wrotenbery, Lori**

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**From:** Wrotenbery, Lori  
**Sent:** Monday, July 03, 2000 6:15 PM  
**To:** Stogner, Michael  
**Cc:** Hebert, Lyn; Chavez, Frank; Catanach, David; Ashley, Mark  
**Subject:** RE: R-10987-B

Mike,

Your points are well taken. The paragraphs excluding Indian lands are intended to apply on an interim basis only.

Under the MOU with BLM concerning well spacing on Indians lands, we are required to provide BLM with an opportunity to review any draft administrative or hearing order relating to matters on Indian lands. BLM makes an independent evaluation of the evidence in the record and decides whether to concur with the draft order or, if BLM and OCD cannot reach consensus on a draft order, issue its own order. Lyn is preparing a letter transmitting to BLM a draft amendment of the Basin-Dakota order deleting the exclusionary paragraphs. BLM will have up to 90 days to respond. If as anticipated BLM concurs, we will issue an amended order that applies throughout the pool.

We need to meet soon to review our procedures for implementing the MOU. Apparently we have not followed the MOU in all cases involving Indian lands, and in this case we didn't recognize the applicability of the MOU until late in the process. I suggested the bifurcated approach in this case as a stopgap measure to avoid further delay in issuance of the order. I hope we can establish a set of procedures to ensure timely compliance with the MOU in the future. Please set up a meeting for sometime in the month of July when you, David, Mark, Lyn and I can all attend.

Thanks.

Lori

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**From:** Stogner, Michael  
**Sent:** Monday, July 03, 2000 3:14 PM  
**To:** Wrotenbery, Lori  
**Cc:** Hebert, Lyn; Chavez, Frank; Catanach, David  
**Subject:** R-10987-B

Ms. Wrotenbery,

Please consider this e-mail/letter a dissenting opinion to the inclusion of two additional paragraphs to a recent draft order that I issued as Division Order No. R-10987-B in Division Case No. 12290 that amended the special rules for the Basin-Dakota Pool. I feel that I would be negligent in carrying out my duties in upholding the laws of New Mexico under the Oil & Gas Act if I did not respond in this manner.

New Mexico's spacing rules, either under statewide or special pool rules, have served as a mechanism whereby all mineral interest underlying a common source of supply are treated fairly and equally in the

development of that particular reservoir no matter as to mineral ownership. The inclusion to my draft order of Finding Paragraph No. (23) and Ordering Paragraph No. (2) serves to give an unfair advantage to those operators directly adjacent to Indian Lands by allowing them to encroach closer to Indian Lands (660 feet) without notification, warning, or opportunity for the mineral interest on the adjacent Indian Lands to object. The offsetting operators on Indian Lands who will be required to operate under Division Order No. R-10987 will not only be required to locate further from this same boundary line (790 feet) they will be required to: (i) seek an exception to a rule that favors the offsetting party on non-Indian Lands; and (ii) contact that offset operator and/or mineral interests giving them an opportunity to object.

As the hearing Examiner in this Case I wish to be on record as being opposed to this inequitable treatment of Indian mineral interests.

Thank you for allowing me to respond in this manner.

Michael E. Stogner, Chief Hearing Officer/Engineer